

E-FILED on: 9/22/2008

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA
SAN JOSE DIVISION

B. DAVID MEHMET,
Plaintiff,
v.
PAYPAL, INC.,
Defendant.

No. C-08-01961 RMW

ORDER DENYING MEHMET'S MOTION
FOR LEAVE TO FILE A MOTION FOR
RECONSIDERATION

[Re Docket No. 33]

Plaintiff B. David Mehmet sued the defendant, Paypal, Inc., on April 14, 2008. On May 27, 2008, Mr. Mehmet moved for summary judgment on two of his claims. The court denied the motion pursuant to Rule 56(f) on August 12, 2008. *See* Docket No. 26, *Mehmet v. Paypal, Inc.*, 2008 WL 3495541 (N.D. Cal. Aug. 12, 2008). The court noted that where "a summary judgment motion is filed so early in the litigation, before a party has had any realistic opportunity to pursue discovery relating to its theory of the case, district courts should grant any Rule 56(f) motion [for a continuance] fairly freely." *Id.* at *5 (quoting *Burlington N. Santa Fe R.R. Co. v. Assiniboine & Sioux Tribes of the Fort Peck Reservation*, 323 F.3d 767, 773 (9th Cir.2003)). Mr. Mehmet now moves for reconsideration of the denial of his motion for summary judgment.¹

¹ "No party may notice a motion for reconsideration without first obtaining leave of Court to file the motion." Civ. L. R. 7-9(a). The court construes Mr. Mehmet's motion as a motion for leave to file a motion for reconsideration.

1 A party moving for reconsideration must show that (1) the party was diligent in presenting
2 the law or facts but presented the wrong law or facts at the hearing, (2) the law or facts have changed
3 significantly, or (3) the court made a manifest failure in considering the law or facts presented. Civ.
4 L. R. 7-9(b). Mr. Mehmet fails to establish any of these factors, generally reiterating that his version
5 of events is true and that no discovery could establish otherwise (or establish a defense to his claim).

6 In denying Mr. Mehmet's motion for summary judgment, the court only held that Paypal is
7 entitled to the opportunity to conduct discovery to defend against Mr. Mehmet's claims. The court
8 did not manifestly err in reaching this conclusion. Accordingly, the court denies Mr. Mehmet's
9 motion for leave to file a motion for reconsideration.

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11 DATED: 9/22/2008



RONALD M. WHYTE
United States District Judge

